

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Cho, Han Ki

Customer No.: 30827

Application No.: 10/765,107

Confirmation No.: 9733

Filed: January 28, 2004

Art Unit: 3637

For: WASHING MACHINE PEDESTAL

Examiner: HANSEN, James Orville

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

A Notice of Appeal and a Petition for Extension of Time are filed herewith. Applicant respectfully requests review of the Final Rejection mailed May 24, 2006 in the above-identified application.

The Advisory Action mailed on November 3, 2006 asserts that the Request for Reconsideration mailed October 24, 2006 in response to the Final Rejection is un-persuasive. Because a Request for Reconsideration was filed in response to the Final Rejection, claims on appeal are as shown in the March 6, 2006 Amendment. In particular, claims 1-5 and 9-12 are pending, and claims 6-8 and 13-48 are withdrawn from consideration due to an Election of Species Requirement mailed August 23, 2005.

This review is requested for the following reasons.

**I. The Rejection of Claim 1 as being Obvious over
DE 193838631 in view of Sill is in Error**

Claim 1, among others, recites "at least one coupling means provided both to a lateral side of the washing machine or the laundry dryer and a lateral side of the pedestal body for coupling the washing machine or the laundry dryer with the pedestal body."

The Final Rejection at page 2 acknowledges that DE193838631 ("*DE '631*") does not disclose the above-noted feature. However, the Final Rejection alleges that it would be obvious to combine the teachings of *DE '631* with U.S. Patent No. 6,578,902 to Sill ("*Sill*") to derive at the claimed invention of claim 1. This combination, however, is in error because *Sill* is non-analogous art.

M.P.E.P. § 2141.01(a) states that:

The examiner must determine what is "analogous prior art" for the purpose of analyzing the obviousness of the subject matter at issue. "In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). See also *In re Deminski*, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); *In re Clay*, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992) ("A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem."); *Wang Laboratories Inc. v. Toshiba Corp.*, 993 F.2d 858, 26 USPQ2d 1767 (Fed. Cir. 1993); and *State Contracting & Eng'g Corp. v. Condotte America, Inc.*, 346 F.3d 1057, 1069, 68 USPQ2d 1481, 1490 (Fed. Cir. 2003) (where the general scope of a reference is outside the pertinent field of endeavor, the reference may be considered analogous art if subject matter disclosed therein is relevant to the particular problem with which the inventor is involved).

First, *Sill* is not in the field of Applicant's endeavor. Applicant's claimed invention relates to coupling means for coupling a pedestal to a washing machine or a laundry dryer. In contrast, *Sill* pertains to devices and configurations for joining consecutive sidewall panels of a trailer or container. See *Sill* at col. 1, lines 10-13. Nowhere does *Sill* disclose or even

suggest that *Sill*'s invention is suitable for attaching a pedestal to a washing machine or a laundry dryer. As such, *Sill* is not in the field of Applicant's endeavor.

Furthermore, *Sill* is not reasonably pertinent to the problem with which Applicant was concerned about. As described in the application, in the case of a washing machine using a pedestal, a worker was required to lay down the washing machine on a floor, tilt the pedestal, fasten the pedestal to the bottom of the washing machine, bring the washing machine having the pedestal fastened thereto into a stand position, and install the washing machine to a desired position. This required much effort and potential injury to the worker. An advantage of the claimed invention was to resolve these problems. See paragraph [0010] of the application. Specifically, the claimed invention provides a simple way of attaching the pedestal to a washing machine or a laundry dryer in contrast to what was done previously.

Sill, on the other hand, addresses problems associated with rivets, splicer plates or uneven interior surfaces that cause protrusions within an interior of a trailer or container. See col. 1, line 66-col. 2, line 11. *Sill*'s solution, as shown in Figs. 4-5, is to provide adhesive sheets 125, 126 between the interior and exterior splicer plates 123, 124 and either or both of the wall panels 115, 116 having recessed region 135. Rivets are then applied to further secure the layered elements. In so doing, protrusions into the interior of the trailer or container is eliminated. See col. 7 and line 15-col. 8, line 29. In other words, *Sill*'s solution is to provide a recessed region in the wall panels, which clearly, has nothing to do with the problem with which Applicant was concerned about.

In response to the argument above, which was made in the October 24, 2006 Request for Reconsideration, the Advisory Action rationalizes the rejection of the claims by alleging that *Sill* describes a known means of joining two adjacent structures together via a coupler and adhesive. See Advisory Action at page 2. However, the Advisory Action misses a fundamental point, which is that *Sill* is not about joining two adjacent structures together via adhesive means. Rather, *Sill* is about eliminating protrusions in an interior of a trailer or

container. See also the Abstract of *Sill*. Then, is this the subject matter which logically commends itself to an inventor's attention when faced with the Applicant's problem? The simple answer is "no."

In other words, to reiterate the argument above, the claimed invention is directed to problems associated with installing a pedestal on a washing machine or a laundry dryer such that work is minimized and potential injury to the worker is avoided. *Sill*, on the other hand, addresses problems associated with rivets, splicer plates or uneven interior surfaces that cause protrusions within an interior of a trailer or container.

In sum, *Sill* is non-analogous art and cannot be combined with DE '631 to render the claimed invention obvious. Therefore, claim 1 recites patentable subject matter.

**II. The Rejection of Claim 1 as being Obvious over
Applicant's Prior Art Admission in view of Sill is in Error**

As discussed above, *Sill* is not in the field of Applicant's endeavor. Further, *Sill* is not reasonably pertinent to the problem with which Applicant was concerned about. In sum, *Sill* is non-analogous art. Therefore, *Sill* cannot be combined with Applicant's Prior Art Admission to render the claims obvious. Therefore, claim 1 recites patentable subject matter.

III. Conclusion

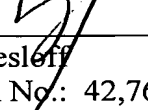
In view of the above, Applicant maintains that all the pending claims are patentable over the applied prior art, and respectfully believe that the application is in a condition for allowance.

Should the review panel believe that anything further is desirable to place the application in even better condition for allowance, the panel is encouraged to contact the undersigned attorney at (202) 496-7500. All correspondence should continue to be sent to the below-listed address.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. § 1.136, and any additional fees required under 37 C.F.R. § 1.136 for any necessary extension of time, or any other fees required to complete the filing of this pre-appeal brief, may be charged to Deposit Account No. 50-0911. Please credit any overpayment to deposit Account No. 50-0911. A duplicate copy of this sheet is enclosed.

Dated: November 22, 2006

Respectfully submitted,

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